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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 LESTER K. CORNETTE,

10 Plaintiff,

11 v.

12 JOHN E. POTTER, in his official capacity
13 as USPS POSTMASTER GENERAL,

14 Defendant.

CASE NO. C09-5373BHS

ORDER DENYING
PLAINTIFF'S MOTION TO
COMPEL, PLAINTIFF'S
MOTION FOR DEFAULT
JUDGMENT, AND
PLAINTIFF'S MOTION FOR
DEFAULT AND DEFAULT
JUDGMENT

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17 This matter comes before the Court on Plaintiff's motion to compel (Dkt. 10),
18 Plaintiff's motion for default judgment (Dkt. 17), and Plaintiff's motion for default and
19 default judgment (Dkt. 42). The Court has considered the pleadings filed in support of
20 and in opposition to the motions and the remainder of the file and hereby denies the
21 motions for the reasons stated herein.

22 **I. PROCEDURAL HISTORY**

23 On June 23, 2009, Plaintiff Lester K. Cornette filed a complaint against
24 Defendants John E. Potter, in his official capacity as United States Postal Service
25 Postmaster General; Eric Holder, Jr., in his official capacity as United States Attorney
26 General; Jeffery C. Sullivan, in his official capacity as United States District Attorney;
27 and Jay Bonner, Ronald Nilsby, Paula Louise Stafford, Bob Huffman, Katherine Nash,
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1 Jon Patton, and Robert Montgomery in their official capacities with the United States
2 Postal Service. Dkt. 1 (“Complaint”) at 1-2. Plaintiff alleges that Defendants violated
3 Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §§ 2000e *et seq.*; the
4 Americans with Disabilities Act of 1990, as amended 42 U.S.C. §§ 12101 *et seq.*; and the
5 Rehabilitation Act of 1973, as amended 29 U.S.C. §§ 794a *et seq.* *Id.*

6 On August 26, 2009, Plaintiff filed a motion to compel requesting that the Court
7 order Defendants to participate in the Court-ordered discovery conferences. Dkt. 10. On
8 September 4, 2009, Defendants responded. Dkt. 12. On September 9, 2009, Plaintiff
9 replied. Dkt. 16.

10 On September 2, 2009, Plaintiff filed a motion for summary judgment. Dkt. 13.

11 On September 8, 2009, Defendants answered the complaint (Dkt. 14) and filed a
12 motion to continue Plaintiff’s motion for summary judgment and to stay the parties’
13 obligations under the Court’s order that set the deadlines for discovery conferences. Dkt.
14 15.

15 On September 10, 2009, Plaintiff filed a motion for default judgment. Dkt. 17. On
16 September 17, 2009, Defendants responded. Dkt. 19. On September 22, 2009, Plaintiff
17 replied. Dkt. 24.

18 On September 21, 2009, the Court granted Defendants’ motion to continue
19 Plaintiff’s motion for summary judgment and to stay the parties’ discovery obligations.
20 Dkt. 21.

21 On October 21, 2009, Plaintiff filed another motion for default and default
22 judgment. Dkt. 42.

23 **II. FACTUAL BACKGROUND**

24 Because the instant motions involve mostly procedural matters, the only fact that
25 may be disputed is that Plaintiff claims that he served Defendant Potter on July 8, 2009.
26 Dkt. 42 at 5.

III. DISCUSSION

A. Motions for Default

The United States, a United States agency, or a United States officer or employee sued only in an official capacity must serve an answer to a complaint, counterclaim, or crossclaim within 60 days after service on the United States attorney. Fed. R. Civ. P. 12(a)(2). In this case, Plaintiff has failed to show that Defendants failed to answer within 60 days of service on the United States Attorney. Plaintiff appears to argue that the Defendants must answer within 60 days of the date that the complaint was filed, but that is not the applicable rule. Therefore, the Court denies Plaintiff's motions for default.

B. Motion to Compel


The Court has stayed the parties' obligations regarding pretrial conferences. *See* Dkt. 21. Therefore, the Court denies Plaintiff's request to order Defendants to participate in pretrial conferences at this time.

IV. ORDER

Therefore, it is hereby

ORDERED that Plaintiff's motion to compel (Dkt. 10), Plaintiff's motion for default judgment (Dkt. 17), and motion for default and default judgment (Dkt. 42) are **DENIED**.

DATED this 20th day of November, 2009.


BENJAMIN H. SETTLE
United States District Judge